

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS**

DO NOT WRITE IN THIS SPACE	
Case 20-CB-277308	Date Filed 5/18/2021

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name Warehouse Union local 6 ILWU		b. Union Representative to contact (b) (6), (b) (7)(C) Title: (b) (6), (b) (7)(C)	
c. Address (Street, city, state, and ZIP code) 99 Hegenberger Road CA Oakland 94621		d. Tel. No. (510) 375-2276	e. Cell No.
		f. Fax No.	g. e-Mail
h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (list subsections) (1)(A),(3) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) --See additional page--			
3. Name of Employer Heath Ceramics LTD		4a. Tel. No. (415) 332-7332	b. Cell No. (619) 865-2670
		c. Fax No.	d. e-Mail
5. Location of plant involved (street, city, state and ZIP code) 400 Gate Five Road CA Sausalito 94965		6. Employer representative to contact Monik/ Neal Navorrow Title: People Operations manager/General Manager	
7. Type of establishment (factory, mine, wholesaler, etc.)	8. Identify principal product or service	9. Number of workers employed	
10. Full name of party filing charge (b) (6), (b) (7)(C)		11a. Tel. No. (b) (6), (b) (7)(C)	b. Cell No. (b) (6), (b) (7)(C)
		c. Fax No.	d. e-Mail (b) (6), (b) (7)(C)
11. Address of party filing charge (street, city, state and ZIP code.) (b) (6), (b) (7)(C)			
12. DECLARATION I declare (b) (6), (b) (7)(C) read the above charge and that the statements therein are true to the best of my knowledge and belief. By (b) (6), (b) (7)(C) (signature of representative or person making charge) (Print/type name and title or office, if any) Title: (b) (6), (b) (7)(C) Address (b) (6), (b) (7)(C) (date) 05/18/2021 01:18:32 PM			
		Tel. No. (b) (6), (b) (7)(C)	
		Cell No. (b) (6), (b) (7)(C)	
		Fax No.	
		e-Mail (b) (6), (b) (7)(C)	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Basis of the Charge

8(b)(1)(A)

Within the previous six months, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by refusing to process the Charging Party's grievance for arbitrary or discriminatory reasons or in bad faith.

8(b)(3)

Within the previous six months, the above-named labor organization has failed and refused to bargain in good faith with the employer.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738

Agency Website: www.nlr.gov
Telephone: (415)356-5130
Fax: (415)356-5156



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May 18, 2021

(b) (6), (b) (7)(C)

Warehouse Union Local 6 ILWU
99 Hegenberger Road
Oakland, CA 94621

Re: Warehouse Union Local 6 ILWU
(Heath Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney TRACY CLARK whose telephone number is (628)221-8841. If this Board agent is not available, you may contact Supervisory Attorney KATHLEEN C. SCHNEIDER whose telephone number is (628)221-8873.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to

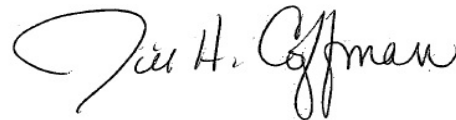
May 18, 2021

your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, reading "Jill H. Coffman". The signature is fluid and cursive, with the first name "Jill" and last name "Coffman" clearly legible.

JILL H. COFFMAN
Regional Director

Enclosure: Copy of Charge

cc: Sheila K. Sexton, Attorney at Law
Beeson, Tayer & Bodine
Ross House
483 9th Street, Suite 200
Oakland, CA 94607-4051

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

WAREHOUSE UNION LOCAL 6 ILWU (HEATH CERAMICS LTD)

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 20-CB-277308

AFFIDAVIT OF SERVICE OF CHARGE AGAINST LABOR ORGANIZATION

I, the undersigned employee of the National Labor Relations Board, state under oath that on May 18, 2021, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)
Warehouse Union local 6 ILWU
99 Hegenberger Road
Oakland, CA 94621

Sheila K. Sexton, Attorney at Law
Beeson, Tayer & Bodine
Ross House
483 9th Street, Suite 200
Oakland, CA 94607-4051

May 18, 2021

Date

Donna Gentry, Designated Agent of NLRB

Name

/s/ Donna Gentry

Signature



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NATIONAL LABOR RELATIONS BOARD

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May 18, 2021

Monik/ Neal Navorrow
People Operations Manager/General Manager
Heath Ceramics LTD
400 Gate Five Road
Sausalito, CA 94965

Re: Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

Dear Ms. Navorrow:

Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney TRACY CLARK whose telephone number is (628)221-8841. If this Board agent is not available, you may contact Supervisory Attorney KATHLEEN C. SCHNEIDER whose telephone number is (628)221-8873.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

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If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to

May 18, 2021

your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, reading "Jill H. Coffman". The signature is written in a cursive, flowing style.

JILL H. COFFMAN
Regional Director

Enclosures



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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May 18, 2021

(b) (6), (b) (7)(C)

Re: Warehouse Union Local 6 ILWU
(Heath Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on May 18, 2021 has been docketed as case number 20-CB-277308. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney TRACY CLARK whose telephone number is (628)221-8841. If this Board agent is not available, you may contact Supervisory Attorney KATHLEEN C. SCHNEIDER whose telephone number is (628)221-8873.

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Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to

take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

May 18, 2021

Very truly yours,

A handwritten signature in black ink, reading "Jill H. Coffman". The signature is written in a cursive style with a large, looping initial "J" and a distinct "H" and "C".

JILL H. COFFMAN
Regional Director

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Heath Ceramics Ltd.
Employer
and
(b) (6), (b) (7)(C)
Petitioner
and
Warehouse Union Local 6, ILWU
Union

CASE 20-CB-277308

☐ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Warehouse Union Local 6, ILWU

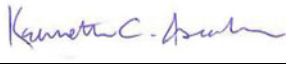
IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME:	Kenneth C. Absalom
MAILING ADDRESS:	Law Office of Kenneth C. Absalom 340 Pine Street Suite 503 San Francisco CA 94104
E-MAIL ADDRESS:	kenabsalom@333law.com
OFFICE TELEPHONE NUMBER:	415-392-5040
CELL PHONE NUMBER:	FAX: 415-392-3729
SIGNATURE:	
	(Please sign in ink.)
DATE:	May 25, 2021

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

Confirmation Number	1049536522
Date Submitted	Wednesday, May 26, 2021 3:59 PM (UTC-08:00) Pacific Time (US & Canada)
Case Name	Warehouse Union Local 6 ILWU (Heath Ceramics LTD)
Case Number	20-CB-277308
Filing Party	Charging Party
Name	(b) (6), (b) (7)(C), (b) (7)(D)
Email	(b) (6), (b) (7)(C), (b) (7)(D)
Address	(b) (6), (b) (7)(C), (b) (7)(D)
Telephone	(b) (6), (b) (7)(C), (b) (7)(D)
Fax	
Original Due Date	5/27/2021
Date Requested	5/28/2021
Reason for Extension of Time	Tracey Clark asked if I adopted and 6 incorporate those statements herein. On the affidavit I asked her what she meant by that and she answered "That means you are reaffirming that your prior affidavits are true statements." I asked her what dose reaffirming mean and I can't say I adopt and 6 incorporate herein Because Steven sloper might have changed it and I never received a copy due to the fact of me talking to another employee during the time or around the time the affidavit was written . My I have permission to extend the time to Finnish the affidavit I haven't receive the answer to a question I asked Tracy Clark about the affidavit as well .
What Document is Due	Unknown
Parties Served	Charging Party (b) (6), (b) (7)(C), (b) (7)(D) Charged party: Warhouserhouse Union Local 6 ILWIU (Heath Ceramics LTD) Case # 20-CB-277308



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738

Agency Website: www.nlrb.gov
Telephone: (415)356-5130
Fax: (415)356-5156

June 3, 2021

(b) (6), (b) (7)(C)

Re: Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Warehouse Union local 6 ILWU (Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union violated Section 8(b)(1)(A) of the Act by refusing to file a grievance on your behalf regarding your (b) (6), (b) (7)(C) 2020 layoff. The investigation revealed the Union told you it would not file a grievance regarding your layoff in (b) (6), (b) (7)(C) 2020. Section 10(b) of the Act precludes the issuance of a complaint based on conduct, of which the charging party was aware, that occurred more than six months prior to the filing of the unfair labor practice charge. *John Morrell & Co.*, 304 NLRB 896, 899 (1991). The Union's (b) (6), (b) (7)(C) 2020 notification to you that it would not file your layoff grievance occurred more than eight months before you filed the instant charge. Accordingly, the instant charge is time-barred by Section 10(b) of the Act.

Regarding the allegation that the Union violated Section 8(b)(3) of the Act by failing to bargain in good faith, insufficient evidence was presented to establish that allegation.

Finally, to the extent your instant charge requests that I reinstate your prior, timely charge against the Union, that request is denied. The investigation disclosed no evidence that the Union fraudulently concealed evidence related to your prior, timely filed charge. *See Kanakis Co.*, 293 NLRB 435 (1989); cf. *Brown & Sharpe Mfg. Co.*, 312 NLRB 444 (1993); *Morgan's Holiday Markets*, 333 NLRB 837 (2001) (holding that a Regional Director may only reinstate a timely filed charge that was dismissed after the expiration of the 10(b) period in limited circumstances, such as when a charged party has fraudulently concealed evidence).

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's

E-Filing policy are available at www.nlrb.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact e-filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **June 17, 2021**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than June 16, 2021. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before June 17, 2021**. The request may be filed electronically through the **E-File Documents** link on our website www.nlrb.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after June 17, 2021, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,

/s/ Daniel J. Owens

DANIEL J. OWENS
Acting Regional Director

Enclosure

cc:

(b) (6), (b) (7)(C)

Warehouse Union local 6 ILWU
99 Hegenberger Road
Oakland, CA 94621

Kenneth C. Absalom, Attorney
Law Office of Kenneth C. Absalom
340 Pine Street
Suite 503
San Francisco, CA 94104

Monik/ Neal Navorrow, People Operations Manager/General Manager
Heath Ceramics LTD
400 Gate Five Road
Sausalito, CA 94965

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

E-FILING TO APPEALS

1. **Extension of Time:** This document is used when the Charging Party is asking for more time to efile an Appeal.
 - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
 - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.
2. **File an Appeal:** If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.
 - Only **one (1) Appeal** can be e-filed to **each** determination in the Region's decision letter that is received.
 - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.
3. **Notice of Appearance:** Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.
 - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
 - This document can be e-filed **before** an Appeal is e-filed.
4. **Correspondence:** Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.
 - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
5. **Position Statement:** The Charging Party or Charged Party may e-file a Position Statement.
 - The Charging Party will e-file this document as a supplement of the Appeal.
 - The Charged Party will specifically file one to support the Region's decision.
 - This document should be e-filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.
6. **Withdrawal Request:** If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.
 - This document should be e-Filed **after** an **Extension of Time, Appeal or Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

June 7, 2021

(b) (6), (b) (7)(C)
[Redacted]

Re: Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

We have received your appeal and accompanying material. We will assign it for processing in accordance with Agency procedures, which include review of the investigatory file and your appeal in light of current Board law. We will notify you by email, if an email address is provided, and all other involved parties as soon as possible of our decision.

Sincerely,

Peter Sung Ohr
Acting General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld".

By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: JILL H. COFFMAN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
901 MARKET ST STE 400
SAN FRANCISCO, CA 94103-1738

KENNETH C. ABSALOM, ESQ.
LAW OFFICE OF
KENNETH C. ABSALOM
340 PINE ST STE 503
SAN FRANCISCO, CA 94104

Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

-2

(b) (6), (b) (7)(C)
WAREHOUSE UNION LOCAL 6 ILWU
99 HEGENBERGER RD
OAKLAND, CA 94621

MONIK/ NEAL NAVORROW, PEOPLE
OPERATIONS MANAGER/GENERAL
MANAGER
HEATH CERAMICS LTD
400 GATE FIVE RD
SAUSALITO, CA 94965

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

August 27, 2021

(b) (6), (b) (7)(C)

Re: Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. The appeal is denied substantially for the reasons in the Regional Director's letter of June 3, 2021.

You alleged that the Union violated the National Labor Relations Act (Act) by refusing to file a grievance on your behalf regarding your (b) (6), (b) (7)(C) 2020 layoff. However, The Union's (b) (6), (b) (7)(C) 2020 notification to you that it would not file your layoff grievance occurred more than eight months before you filed the instant charge. In this regard, Section 10(b) provides that no unfair labor practice complaint will issue on alleged unfair labor practices that occurred more than six months before the charge was filed.

However, even assuming arguendo that the allegation was not barred by Section 10(b), the evidence failed to establish that the Union violated the Act. A violation of Section 8(b)(1)(A) of the Act can only be established if it can be shown that a union's decision in carrying out its duties with respect to grievance processing is motivated by discriminatory, arbitrary, or capricious considerations. *Vaca v. Sipes*, 368 U.S. 171 (1967). In the instant case, the investigation revealed that the Union's decision not to file a grievance on your behalf was not motivated by discriminatory, arbitrary, or capricious considerations.

Regarding the allegation that the Union violated Section 8(b)(3) of the Act by failing to bargain in good faith, the evidence was also insufficient to establish a violation in this regard.

Accordingly, the appeal is denied.

Sincerely,

Jennifer A. Abruzzo
General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: JILL H. COFFMAN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
901 MARKET ST STE 400
SAN FRANCISCO, CA 94103-1738

KENNETH C. ABSALOM, ESQ.
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

September 16, 2021

(b) (6), (b) (7)(C)

Re: Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

We have received your timely motion for reconsideration in the above-captioned case. We will assign your motion for processing in accordance with Agency procedures. Please be assured that our review of this matter will include a full analysis of the underlying investigatory file, your motion, as well as current Board law and processes.

We will notify you and all involved parties of our decision by letter via email as permitted under Section 102.4(c) of the Board's *Rules and Regulations*. If an email address is not available for you, we will provide the decision by mail.

Sincerely,

Jennifer A. Abruzzo
General Counsel

A handwritten signature in black ink, reading "Mark E. Arbesfeld", is written over a horizontal line.

By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: JILL H. COFFMAN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
901 MARKET ST STE 400
SAN FRANCISCO, CA 94103-1738

(b) (6), (b) (7)(C)
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

January 31, 2022

(b) (6), (b) (7)(C)

Re: Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

This is in reply to your correspondence which we are treating as a Motion for Reconsideration. After a careful review of the evidence in the case, in conjunction with the contentions raised and additional evidence presented in your motion, we conclude that a departure from our original decision is unwarranted.

The Union's August 2020 notification to you that it would not file your layoff grievance occurred more than eight months before you filed the instant charge. In this regard, Section 10(b) of the National Labor Relations Act provides that no unfair labor practice complaint will issue on alleged unfair labor practices that occurred more than six months before the charge was filed.

Accordingly, the motion is denied, and this case remains closed.

Sincerely,

Jennifer A. Abruzzo
General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld".

By: _____

Mark E. Arbesfeld, Director
Office of Appeals

Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

-2

cc: JILL H. COFFMAN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
901 MARKET ST STE 400
SAN FRANCISCO, CA 94103-1738

MONIK/ NEAL NAVORROW
PEOPLE OPERATIONS
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340 PINE ST STE 503
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

May 31, 2022

(b) (6), (b) (7)(C)

Re: Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

Dear (b) (6), (b) (7)(C):

This is in reply to your correspondence, which we are treating as a second Motion for Reconsideration. We have reviewed the evidence presented in conjunction with your second motion as well as the documents that you submitted in support of your motion and conclude that a departure from our original decision is unwarranted. It was concluded that your motion lacks merit, as you have not provided any evidence that could be considered newly discovered.

Accordingly, the motion is denied, and this case remains closed.

Sincerely,

Jennifer A. Abruzzo
General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld".

By:

Mark E. Arbesfeld, Director
Office of Appeals

Warehouse Union Local 6 ILWU (Heath
Ceramics LTD)
Case 20-CB-277308

-2

cc: JILL H. COFFMAN
REGIONAL DIRECTOR
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

January 31, 2022

(b) (6), (b) (7)(C)

Re: Warehouse Union Local 6, ILWU (Heath
Ceramics, LTD.)
Case 32-CB-265300

Dear (b) (6), (b) (7)(C):

This is in reply to your correspondence, which we are treating as a third Motion for Reconsideration. We have reviewed the evidence presented in conjunction with your third motion as well as the documents that you submitted in support of your first and second motion and conclude that a departure from our original decision is unwarranted.

Accordingly, the motion is denied, and further documents submitted will not receive a response from this office.

Sincerely,

Jennifer A. Abruzzo
General Counsel

A handwritten signature in black ink, reading "Mark E. Arbesfeld".

By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: VALERIE HARDY-MAHONEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
1301 CLAY ST STE 300N
OAKLAND, CA 94612-5224

(b) (6), (b) (7)(C)
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